

In re Patent of:
Brockman
Serial No.: 10/760,445

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Remarks

The Office Action has been carefully reviewed and this Response is prepared in view of the Examiner's comments in the Action. Applicant thanks the Examiner for her work in connection with the Application. Applicant notes with appreciation the Examiner's statement that claims 1-20 contained allowable subject matter. Applicant now takes this opportunity to respond to the claim rejections.

Claims 1-28 were pending in the application. Claims 1-20 were indicated as allowed. Claims 21-25 were rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 3,439,483 (Orton). Claims 26-28 were rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 2,544,443 (Brateng). Reconsideration and withdrawal of the rejections is respectfully requested.

Response to Claim Rejections Based on Orton

Claims 21-25 were rejected as being anticipated by U.S. Patent No. 3,439,483 (Orton). Orton discloses a machine for harvesting fruit such as grapes wherein the harvesting of the grapes is on the "shaking principle." Orton at col. 1, line 69. Orton further discloses a harvester with a frame and a plurality of shaker bars secured below the frame. The Examiner's attention is directed to the fact that in Orton the "shaker bars" are flexibly mounted; therefore the Examiner argues the ends of the rods are considered springs. However, Orton does not disclose or suggest any particular means for attachment of the rods to the frame as claimed.

Moreover, the Examiner argues Orton discloses dislodging rods which move at the speed of the frame. However, Orton teaches a harvesting apparatus in which the "power for the shaking [is] derived from a longitudinally extending crankshaft suitably journaled in uprights and having crank throws and spaced 120 degrees apart. At the front end of the crankshaft is a pulley having a belt drive from the power take-off shaft." Orton at col. 1, lines 69-72, col. 2, lines 1-13. In other words, Orton discloses a means for dislodging grapes from grape vines wherein the shaker bars do not move at the speed of the frame; rather each shaker bar moves at a progressively higher speed to shake the fruit loose from the vine. Brockman's invention discloses a harvesting

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machine with dislodging rods that move at the speed of the frame, thereby reducing damage to the fruit as a result of the harvesting process.

Response to Claim Rejections Based on Brateng

Claims 26-28 were rejected as being anticipated by U.S. Patent No. 2,544,443 (Brateng). The Examiner argues Brateng discloses a harvesting machine with dislodging rods that move in a direction transverse to the movement of the frame. However, Brateng teaches dislodging rods which move in a direction parallel to the movement of the frame. Brateng at col. 3, lines 17-22. Moreover, in Brateng the dislodging rods do not move at the speed of the frame as claimed. Brateng discloses a harvesting machine comprising a motor supplied with power which causes the dislodging rods to vibrate violently and thereby shake the cranberries loose from the plant. Brateng at col. 2, lines 39-41.

Conclusion

Applicant believes that all claims, as amended, include features which are not disclosed or suggested in the prior art. Therefore, Applicant believes that all rejections have been traversed by amendment and all claims are in proper form for allowance. Early and favorable action is requested. The Examiner is invited to contact the undersigned if he can be of any assistance to the Examiner.

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The Commissioner is authorized to debit or credit deposit account 10-0270 for the full amount of any fee due in connection with this paper. Kindly notify the undersigned in the event the deposit account is debited or credited.

Respectfully submitted,



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Dated: February 2, 2005

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CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that the following documents: (1) Transmittal Letter; (2) Amendment Transmittal Letter; (3) Amendment and Response all involving Serial No. 10/760,445 are being facsimile transmitted to Examiner Meredith C. Petravick, Group Art Unit 3671 at the U.S. Patent and Trademark Office, facsimile no. 703/872-9306, on February 2, 2005.


Terasa Johnson